

OKLAHOMA CORPORATION COMMISSION

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December 30, 2003

Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Attention: Marlene H. Dortch

Re: Report and Order and Order on Remand and Further Notice of Proposed Rulemaking in the consolidated matters of in the matter of review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers (CC Docket No. 01-338); Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (CC Docket No. 96-98); Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98-147) ("Triennial Review Order")

Honorable Commissioners:

The Oklahoma Corporation Commission, pursuant to the Triennial Review, submits Order No. 484256, Cause No. PUD 200300615, in which there was not a challenge of the Federal Communications Commission's determination of non-impairment for switches serving customers in the enterprise market at the DS1 capacity and above. Further, Order No. 484256 addresses the method to transfer embedded base of DS1 enterprise customers to an alternative service arrangement.

Please acknowledge receipt of this filing by date stamping the extra copy of this letter, and returning it to us in the self-addressed, stamped envelope.

If you have any questions please contact Joyce E. Davidson, Director of the Public Utility Division, Oklahoma Corporation Commission, at (405)522-1155.

Sincerely,

Joyce E. Davidson, Director
Public Utility Division
Oklahoma Corporation Commission

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF JOYCE E. DAVIDSON,)
DIRECTOR OF THE PUBLIC UTILITY DIVISION,) CAUSE NO. PUD 200300615
OKLAHOMA CORPORATION COMMISSION, FOR)
AN ORDER DETERMINING WHETHER THE)
COMMISSION SHOULD PETITION THE FEDERAL)
COMMUNICATIONS COMMISSION TO WAIVE THE)
FINDING THAT TELECOMMUNICATIONS CARRIERS)
ARE NOT IMPAIRED WITHOUT ACCESS TO LOCAL)
CIRCUIT SWITCHING WHEN SERVING DSL)
CAPACITY AND HIGHER ENTERPRISE CUSTOMERS) ORDER NO. 484256

HEARING: November 25, 2003
Before The Honorable Jacqueline T. Miller, Administrative Law Judge

APPEARANCES: David Dykeman, Deputy General Counsel, *representing*
Public Utility Division, Oklahoma Corporation Commission
Lenora F. Burdine, Assistant General Counsel *representing*
Public Utility Division, Oklahoma Corporation Commission
John W. Gray, Jr. and Mary Marks Jenkins, Attorneys *representing*
Southwestern Bell Telephone, L.P., d/b/a SBC Oklahoma
Kendall W. Parrish, Attorney *representing*
Chickasaw Telecommunications Services, Inc. and
Sure-Tel, Inc.
Elizabeth Ryan, Assistant Attorney General
Office of Attorney General, State of Oklahoma

**FINAL ORDER WITHDRAWING OBJECTIONS,
APPROVING TRANSITION PLAN AND CLOSING CAUSE**

BY THE COMMISSION:

The Corporation Commission of the State of Oklahoma ("Commission") being regularly in session and the undersigned Commissioners being present and participating, there comes on for consideration and action the Motion to Withdraw Objections and Request to Close Cause filed herein by Chickasaw Telecommunications Services, Inc. ("CTSI") and Sure-Tel Inc. ("Sure-Tel") and the Request to Approve Transition Plan submitted by Southwestern Bell Telephone, L.P. ("SBC Oklahoma").

PROCEDURAL HISTORY

On October 10, 2003, the Public Utility Division of the Oklahoma Corporation Commission (“Staff”) filed an Application in response to the Triennial Review Order¹ issued by the Federal Communications Commission (“FCC”). The Application was filed to address objections of Competitive Local Exchange Carriers (“CLECs”) and to develop a transition plan, to be approved by the Commission, for CLECs to transfer their DS1 enterprise market customers to an alternative service arrangement within ninety (90) days from the end of the 90-day state consideration period. On October 16, 2003, the Attorney General filed an Entry of Appearance. On October 17, 2003, Cox Oklahoma Telcom, L.L.C. filed a Notice of Withdrawal. Also on October 17, 2003, Staff filed a Motion for Protective Order, a Motion for Procedural Schedule and a Motion to Repair Scrivener’s Error. On October 20, 2003, CTSI and Sure-Tel filed an Objection. On October 31, 2003, CTSI and Sure-Tel filed an Amended Objection. On November 10, 2003, SBC Oklahoma filed a response to the Amended Objection. On November 20, 2003, CTSI and Sure-Tel filed a Motion to Withdraw Objections. On November 25, 2003, CTSI and Sure-tel’s Motion to Withdraw Objections and SBC’s proposed transition plan were heard by the Administrative Law Judge (“ALJ”). During a case conference, Staff counsel recommended the Commission issue a letter to the FCC following the closing of the Cause. There being no objection, following responses to the ALJ, the ALJ granted the Motion to Withdraw Objections and recommended the Cause be closed in accordance with the statements of counsel.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

The Commission finds that it has jurisdiction over the above-entitled Cause pursuant to Art. IX, §18 of the Oklahoma Constitution, 17 O.S. §131 *et seq*, and Oklahoma Administrative Code 165:55.

The Commission further finds there being no objection, the approval of CTSI and Sure-Tel’s Motion to Withdraw Objections is fair, reasonable and in the public interest.

¹ Report and Order on Remand and Further Notice of Proposed Rulemaking in consolidated matters of In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange carriers (CC Docket No. 01-338); and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (CC Docket No. 96-98); Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98-147) (“Triennial Review Order” or “TRO”), released August 21, 2003, with an effective date of October 2, 2003.

The Commission further finds that the transition plan, as proposed by SBC Oklahoma will utilize the “Change of Law” provision provided in each interconnection agreement to transition CLECs from the use of SBC Oklahoma’s unbundled local switching to enterprise customers served by DS1 and higher capacity loops.

The Commission further finds that pursuant to the Change of Law provision, any party to an interconnection agreement may provide notice to the other party to the interconnection agreement of its intent to invoke a recent change of law. This notice will be issued after ninety (90) days from the end of the 90-day state consideration period. To the benefit of the CLECs, the notice will issue beyond the ninety (90) day period contemplated by the TRO. Upon notice, the parties may negotiate an amendment to their interconnection agreement that is consistent with the new change of law. If the parties are unable to negotiate an amicable amendment, the matter may be set for arbitration before the state commission.

The Commission further finds the transition plan will provide an organized process to transition existing CLEC enterprise customers from the incumbent carrier’s unbundled local switching to alternatives.

The Commission further finds there being no objection, the transition plan proposed by SBC Oklahoma is fair, reasonable and in the public interest and should be approved by the Commission.

The Commission further finds that given the withdrawal of CTSI’s and Sure-Tel’s Objections and the fact that no other telecommunications service provider has requested the Commission challenge the FCC’s determination of non-impairment for enterprise unbundled local switching, the Cause should be closed with no further action being taken.

The Commission further finds that a letter shall be submitted to the FCC on or before December 31, 2003, informing the FCC of the Commission’s decision not to seek a waiver of the FCC’s determination of non-impairment for unbundled switching for enterprise customers.

ORDER

IT IS THEREFORE THE ORDER OF THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA that all of the findings of the Commission set forth above are hereby adopted.

OKLAHOMA CORPORATION COMMISSION

/s/ Denise A. Bode
DENISE A. BODE, Chairman

/s/ Bob Anthony
BOB ANTHONY, Vice Chairman

/s/ Jeff Cloud
JEFF CLOUD, Commissioner

DONE AND PERFORMED this 22nd day of December 2003. BY ORDER OF THE COMMISSION:

/s/ Joyce Conner
~~PEGGY MITCHELL~~, Secretary
Joyce Conner, Acting Secretary

REPORT OF THE ADMINISTRATIVE LAW JUDGE

The foregoing Findings and Order are the Report and Recommendations of the Administrative Law Judge.

/s/ Jacqueline T. Miller
JACQUELINE T. MILLER
Administrative Law Judge

December 18, 2003
Date